LEGISLATIVE SERVICES AGENCY

OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6776 | **NOTE PREPARED:** Jan 1, 2013
BILL NUMBER: SB 288 | **BILL AMENDED:**

SUBJECT: Small Employer Wellness Program Tax Credits.

FIRST AUTHOR: Sen. Grooms | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
DEDICATED
FEDERAL

Summary of Legislation: The bill extends the income tax credit for small employers who provide a qualified wellness program for their employees. It provides that the credit may be claimed for costs in 2012 through 2015. (Current law provides that costs incurred after 2011 are not eligible for the credit.)

Effective Date: January 1, 2013 (retroactive).

Explanation of State Expenditures: *Indiana State Department of Health (ISDH):* For purposes of this tax credit, the ISDH is required to establish minimum standards for use by a small employer in establishing a wellness program to improve the health of employees. The ISDH is also to establish criteria to determine if a program meets the minimum standards and a process for certification of a small-employer wellness program. The ISDH is required to review programs submitted for certification based on the developed criteria. If a program meets the standards, ISDH is to certify the program as a qualified wellness program for the purposes of the tax credit. ISDH was performing these duties until December 31, 2011, when the tax credit expired. The ISDH's current level of resources should be sufficient to perform these tasks.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the extension of the tax credit. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Summary:* The bill is estimated to reduce revenue to the state General Fund beginning in FY 2014. The revenue loss is estimated to be between $1.0 M to $1.6 M in FY 2014 and $0.6 M to $1.2 M in FY 2015. Assuming that the bill is enacted in April 2013, the fiscal impact from tax credits awarded against expenditures in tax year 2012 is estimated to occur in FY 2014. This will result in FY 2014 experiencing revenue loss from tax credits awarded for expenditures in tax year 2012 and tax year 2013.

<u>Background:</u> Current law defines a small employer as an employer of 2 to 100 employees. It allows a small employer to take a tax credit for making a health benefit plan available to the employer's employees for the first two taxable years that the employer makes the health benefit plan available. The tax credit is equal to 50% of the cost incurred by the taxpayer in providing the wellness program during the taxable year. The law requires the ISDH to establish standards for and certify a small-employer qualified wellness program. It requires that the qualified wellness program at the minimum should reward employees for appropriate weight loss, smoking cessation, and pursuit of preventative care services.

The tax credit may be claimed against the AGI Tax liability, Financial Institutions Tax liability, or the Insurance Premiums Tax liability. In tax year 2010 (latest year available), 187 taxpayers claimed $0.4 M in small employer's wellness program tax credits. The 2010 claim grew by 39% over tax year 2009. The fiscal impact and annual growth rates are calculated based on the available history of claims. The taxes impacted by the credit are deposited in the state General Fund.

Extension of the Sunset: P.L. 218-2007 established a nonrefundable tax credit for qualified expenditures by "small employers" who provide employee wellness programs certified by the ISDH. The credit was awarded for expenditures beginning in January 1, 2007. It did not provide any sunset date for the tax credit. P.L 172-2011 required an expiration of the tax credit for expenditures after December 31, 2011. This bill extends the tax credit for expenditures made until December 31, 2015. Since the tax credit expired before tax year 2012, the bill further clarifies that the extension of the tax credit will also apply to expenditures made in tax year 2012. Upon the enactment of this law, the ISDH will start accepting applications for a small employer to become qualified to receive the tax credit. This could mean that new credits would most likely be awarded in FY 2014 and thereafter.

Changes in Carry Forward Provision: P.L. 218-2007 did not allow a carry back or refund of any unused credit. It allowed the excess credit to be carried over to the succeeding taxable years. It did not provide any limit to the number of years that the credit could be carried forward. P.L. 172-2011 allowed the taxpayer to carry forward any unclaimed tax credit to tax years 2014 and 2015. It disallowed the carry forward of the tax credit to tax years 2012 and 2013 and tax years after 2015. The bill removes the carry forward restrictions in current law and allows the taxpayers to carry forward the credits to succeeding taxable years up to December 31, 2022. Taxpayers that have unclaimed credits from prior years could claim the credits as soon as this law is enacted.

<u>Explanation of Local Expenditures:</u>

<u>Explanation of Local Revenues:</u>

<u>State Agencies Affected:</u> ISDH; DOR.

<u>Local Agencies Affected:</u>

<u>Information Sources:</u> OFMA Income Tax Database.

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